



POLICE DEPARTMENT

January 6, 2014

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Claudia Mera
Tax Registry No. 933021
40 Precinct
Disciplinary Case No. 2012-6848

The above-named member of the Department appeared before me on August 7, 2013, charged with the following:

1. Said Police Officer Claudia Mera, while assigned to the 40th Precinct, on or about September 13, 2010, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: said Police Officer on two (2) occasions requested the assistance of other members of service to prevent the adjudication of summonses issued to two (2) individuals.

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCTED

2. Said Police Officer Claudia Mera, while assigned to the 40th Precinct, on or about and between August 9, 2010 and August 11, 2010, having become aware of an allegation of corruption or other misconduct involving a member of service, did fail and neglect to notify the Internal Affairs Bureau Command Center.

P.G. 207-21, Page 1-2 ALLEGATIONS OF CORRUPTION AND OTHER
AGAINST MEMBERS OF THE SERVICE

The Department was represented by Vivian Joo, Esq., Department Advocate's Office, and Respondent was represented by Stuart London, Esq.

Respondent, through her counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent is found Guilty as charged.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Sergeant John Ortiz as its sole witness.

Sergeant John Ortiz

Ortiz was a member of the Department for 19 years. For the last eight years, Ortiz has been assigned to Group 21 of the Internal Affairs Bureau (IAB). During 2010, Ortiz became familiar with a wiretap investigation that was being conducted by both the Bronx District Attorney's Office and the Department. Although Ortiz did not take part in any of the criminal proceedings that stemmed from the investigation, he conducted official Department interviews of members of the Department who were heard on the wiretaps talking to the subjects of the wiretaps. Ortiz listened to several hundred wiretap conversations that related to allegations of summons fixing, conducted a couple hundred official Department interviews and assisted in several hundred other interviews related to the summons fixing allegations.

Ortiz explained that there was a basic list of questions that all the officers charged with ticket fixing were asked at official Department interviews: "We would start off by asking questions regarding terms that were used in the process of taking care of summonses, like to describe what 'police courtesy' was in their own words, what taking care of summonses were they familiar with the term 'taking care of summonses,' and what 'taking care of a summons in court' or 'throwing a case out in court' meant to them." After the subject officers explained the terms they used to describe ticket fixing, Ortiz would ask them if they had "personally either requested or facilitated in some form or fashion the taking care of or preventing a summons from not being processed" within the last eighteen months.

During his investigation, Ortiz learned the structure for fixing summonses within the Department: requests to take care of summonses were made through the union delegates. The member requesting that a summons be taken care of would contact the union delegate at their respective command. The delegate at the requestor's respective command would then contact the delegate in the precinct where the summons was issued. Summonses could be taken care of by the issuing officer destroying the summons or changing a digit to render the summons invalid. At the time of the investigation, it was common practice for officers to return to their commands at the end of their shifts and deposit any summonses that were issued during the shift into a box. The summonses would then be collected from the box, processed, and forwarded to the adjudicating agency. Summonses could also be removed from the box and destroyed. Finally, summonses that were deposited in the summons box, processed and forwarded to the adjudicating agency could be taken care of by the intentional omission of certain facts

and details in the testimony of the issuing officer, which would result in the summons being dismissed. Ortiz testified that the summonses are currently accounted for differently because each summons has been printed with a barcode since 2010, and the desk officer has a scanner that can read the barcode on each summons that is turned in at the command. As a result of the desk officer's ability to scan summonses, the use of the summons box was no longer required after 2010.

Ortiz would receive an envelope either the night before or the morning of a scheduled official Department interview related to the Bronx ticket fixing investigation. The envelopes contained copies of recorded telephone conversations, transcripts, and spreadsheets. The spreadsheets "would tell us information like who the summons was issued to, who issued the summons, who made the request and the request was made to who[m], usually delegate to delegate, and then if we had the information, the end result of the summons, whether it was never found, you know, it was lost or the person paid the fine or was found guilty in court."

Ortiz was assigned to Respondent's case. Ortiz and Detective Carelli conducted an official Department interview of Respondent. A recording of Respondent's official Department interview was entered into evidence as Department's Exhibit (DX) 2. A transcript of the interview was entered into evidence as DX 2A.

Multiple wiretap conversations were played for Respondent during the official Department interview. One wiretap conversation of a request made by Respondent on September 15, 2010 did not need to be played for Respondent because she recalled the incident and admitted that she made the request to take care of Person A's summons. A compact disc recording and transcript of the conversation between Respondent and her

union delegate, Police Officer Brian McGuckin, were entered into evidence as DX 1 and 1D.

During the interview, Respondent told Ortiz that she was giving summons information to McGuckin. Ortiz reiterated that before the scanning of summonses in 2010, the normal procedure was for the summons to be placed in a box at the desk. Ortiz testified that it was not normal procedure to give a summons to a delegate to be processed. It was stipulated that McGuckin's phone was tapped.

On cross-examination, Ortiz testified that he was a member of the Department for over nineteen years. Prior to his assignment to IAB, Ortiz worked in the 49 Precinct for approximately five months. Ortiz spent the bulk of his career in Bronx Narcotics where he was assigned for approximately six years. During his nineteen year career, Ortiz was neither a delegate, nor was he ever asked to take care of a summons.

Ortiz agreed that Respondent candidly admitted to making a request to prevent the proper adjudication of a summons that was issued on September 13, 2010 to a friend of her family named Person A. Ortiz knew from the spreadsheet that efforts to prevent the adjudication of the summons were not successful because Person A pleaded guilty to the summons. Ortiz affirmed that there was no evidence obtained from Respondent's official Department interview, the package that he received before the interview, the spreadsheet, or the taped conversations that indicated that Respondent ever removed a summons from the summons box. Ortiz was not aware that Respondent was McGuckin's girlfriend at the time of the interview, but he acknowledged that he heard of their relationship some time after the interview. Ortiz agreed that McGuckin's phone was the subject of a wiretap. Ortiz acknowledged that Respondent was never found to have

changed any numbers or digits on summonses after the scanning procedures were put into effect. Ortiz also testified that Respondent never perjured herself in court when testifying about summonses that were issued.

Ortiz was familiar with the transcript of a conversation involving an individual from the Auto Crime Division (ACD), which also occurred on September 10, 2010. The individual from ACD walked into the precinct to ask about a summons issued to his father. Somebody named Sandy had directed him to Respondent. Respondent then called McGuckin, who was the delegate at the time. The compact disc previously entered into evidence as DX 1 contains the recording of that phone conversation, and a transcript of the conversation was entered into evidence as DX 1C.

Ortiz acknowledged that at the time of the incident it would have been normal for the delegate to receive a phone call from another command about a summons that was issued. Ortiz did not know that besides being the delegate at the precinct, McGuckin was also the training officer. Ortiz agreed that Respondent never pulled the tickets, referred to by the member from ACD, from the summons box. Ortiz also acknowledged that McGuckin instructed Respondent to have the father plead not guilty because that was all that could be done. Ortiz affirmed that other than calling McGuckin, Respondent did not interfere with the proper adjudication of the summonses for the member from ACD.

Although Ortiz did not know the summons numbers referred to by the member from ACD, he knew the summonses were issued by Police Officer Erik Frattellone of the 40 Precinct on September 1, 2010 for an expired registration and uninsured vehicle. Ortiz did not know the identity of the member from ACD, nor did he know the identity of the member's father, on whose behalf the request was made. Ortiz did not personally

contact Frattellone to determine if someone asked him to take care of the summons, nor was Ortiz certain if anybody from his unit spoke to Frattellone. Ortiz did not know if there were any charges of misconduct pending against Frattellone.

Ortiz agreed that part of the investigation is to find out whether or not a summons has been "taken care of" and to determine whether or not officers perjured themselves. He explained that there were over 850 cases and he was not familiar with all of the cases. Ortiz could not say whether or not the two summonses referred to by the individual from ACD were ever fixed. Ortiz agreed that at this point he knew that Respondent called her delegate, and that the delegate told Respondent to have the individual plead guilty. Ortiz did not know what the final dispositions of the two summonses were. Ortiz conceded that there was no misconduct with respect to the two summonses "[o]ther than the [official Department interview] and the conversation and information that we know regarding summons fixing."

While conceding that all Respondent did was to call her delegate about an officer from ACD talking about a summons issued to his father, Ortiz added, "During the [official Department interview] we asked why she [was] contacting him, and she was looking to have the summons taken care of for that unknown cop from Street (sic) Crime." Ortiz did not know if those summonses were ever taken care of. When asked if it was correct that Respondent's advice to the cop from ACD was to have his father plead not guilty because that was all that could be done, Ortiz answered, "And we can take care of it at a later date in court, something to that effect."

Regarding Specification #2, Ortiz agreed that at some point McGuckin received a phone call from David Rodriguez. Rodriguez called McGuckin after Rodriguez's sister-

in-law was issued a summons. McGuckin directed Rodriguez to text the summons information to Respondent's phone. A transcript of the text message conversation between Rodriguez and McGuckin was entered into evidence as DX 1B. According to Ortiz, Respondent admitted in her official Department interview that she then gave the summons information to McGuckin. DX 1 contains a recording of the conversation during which Respondent gives McGuckin the summons information and DX 1B contains a transcript of the call. Ortiz agreed that Respondent was not asked to take care of the summons, to pull a ticket from the summons box, or to go to court and speak to the police officer who issued the ticket to try to get the summons dismissed. Ortiz affirmed that Respondent's sole involvement with the David Rodriguez matter was that McGuckin had Rodriguez text the summons information to Respondent's cellular phone, and then Respondent gave the summons information to McGuckin. There were no recorded conversations in which Respondent asked McGuckin to fix the summonses.

With respect to a summons that was issued to the family member of an unknown state trooper, Ortiz's spreadsheet indicated that the ticket was issued on July 6, 2010. Ortiz did not conduct the actual investigation into the summons and did not make any inquiries to determine where the July date of issuance came from. Ortiz did not know if the summons had to be adjudicated in the Bronx. Ortiz also did not know if the summons was issued by a member of the Department or by another state trooper. Ortiz conceded that he had no information that Respondent pulled the summons from the summons box after a copy of the summons was faxed to Respondent at work. Ortiz admitted that he did not have any evidence that Respondent interfered with the proper adjudication of the summons. Ortiz could only guess that the summons was issued in New York City

because he did not know exactly where the summons was issued. Based on the spreadsheet that he received, Ortiz neither had the summons number nor did he know the ultimate adjudication of the summons. Ortiz conceded that he did not know what happened to the summons, but also stated,

[B]ased on the 850 cases that we had and based on the information that I have in front of me, when there's nothing listed for the final adjudication, it was my experience that, you know, when there was no record, they were destroyed, the summonses never made it to the adjudicating agency. So it was gone, it was lost, there's no history. Just like before when I told you that the request that she made, you know, they found the summons and the person was found guilty so they had a history of that summons.

Ortiz agreed that the Person A summons that Respondent admitted to trying to take care of was never actually taken care of. Ortiz also admitted that he did not know what had happened to the summonses issued to the family member from ACD. According to the spreadsheet given to Ortiz, the summons issued by James Gonzalez of the 44 Precinct to the sister-in-law of David Rodriguez was dismissed in court. Ortiz did not personally conduct an official Department interview of Gonzalez, and he did not know if Gonzalez was the subject of any discipline.

On redirect examination, Ortiz recalled that the date of July 6 was obtained from the wiretap recording of a conversation between McGuckin and an unknown male on August 8, 2010. DX 1A contains transcripts of conversations between McGuckin and the unknown male concerning the faxing of the July 6 summons.

On recross-examination, Ortiz testified although there were no recorded conversations between Respondent and McGuckin in which the date July 6 was

mentioned, they did discuss the summons that was being faxed. DX 1A contains transcripts of these conversations, dated August 9, 2010.

Respondent's Case

Respondent testified in her own behalf.

Respondent

Respondent was a member of the Department for ten years and was assigned as the Community Affairs Officer in the 40 Precinct. Upon her graduation from the Police Academy, Respondent was assigned to Operation Impact in the 47 Precinct. After a six month assignment to the 47 Precinct, Respondent was transferred to the 40 Precinct. In her assignment as the Community Affairs Officer, Respondent acts a liaison between the community and the Police Department.

On September 13, 2010, Respondent received a phone call during which she was asked if there was anything she could do to help her friend Person A. Person A had received a no truck route summons while working. Respondent then called the delegate at the precinct to ask "[i]f there was anything we could do to help him for a summons." According to Respondent, the delegate made some phone calls, "but nothing came of it." Ultimately, any efforts to have Person A's ticket taken care of were not successful and Person A was found guilty and paid the fine.

Respondent described another incident. On September 13, 2010, a member from ACD walked into the 40 Precinct. Respondent was walking towards her office in the lobby of the precinct and noticed a male who was standing by the front desk next to the telephone switchboard operator, Police Officer Gonzalez. Gonzalez pointed towards

Respondent and told the male that he should speak with Respondent. Respondent testified that the officer wanted to "speak about a summons that his father was given." Respondent believed that Gonzalez pointed her out to the male from ACD because "he felt that I had knowledge of what to do or that I could reach - - I could have direct contact with a delegate." Respondent acknowledged that one of the delegates in her command was her boyfriend, McGuckin.

Respondent recalled having a conversation with the male from ACD, and stated,

From what I remember, he had showed me ID. He said he was from Auto Crime. I think he said that his father had gotten written up the night before and if there was anyone that he could talk to about that. I had my cell phone. I called Brian McGuckin right in front of him and I had asked Brian McGuckin what can we do with - - what he should do with the summons or what can we do with the summons. And I was advised to tell him just to plead not guilty in court.

After the officer from ACD walked out of the station house, Respondent had no further contact with him. Respondent never contacted the officer who issued the ticket, never saw the ticket, and never attempted to pull the ticket from the summons box.

Respondent recalled an instance on August 9, 2010 when McGuckin asked her to receive a fax involving a ticket and a state trooper. Respondent remembered that McGuckin asked her to receive a fax for him while she was working. Respondent had asked McGuckin to confirm when the fax was sent because she did not want to stand behind the desk. After receiving confirmation that the fax was sent, Respondent went to retrieve the fax and discovered that the fax machine was not working. Respondent provided an alternate fax number and eventually received that fax which she placed on her desk before leaving the station house for work. According to Respondent, McGuckin

neither told her why he wanted nor did he say why he needed the fax. Respondent did not know the individual who was issued the summons that was faxed to the precinct. Respondent never contacted the issuing officer named on the faxed copy of the summons. Respondent was never told that the purpose of the fax was to have a ticket taken care of. Respondent explained,

I didn't think it was unusual at all. It was a basic request for me to receive a fax as a favor because the fax machine was feet away from my office. Brian McGuckin was a training officer. He's the delegate. And anything and everything to do with teaching or processing or handling summonses at all, recording summonses, he would handle; so it wasn't a question of why I shouldn't receive a fax, a summons. There was no (sic) unusual.

Respondent described McGuckin's duties as a training officer:

To the best of my knowledge, he would train officers. He would collect the summonses. They would record the summonses. There was a couple of guys in there. I think it was a sergeant and Brian at the time.

Record keeping and as far as him marrying the two roles together, he would also train the officers at roll call on how to use discretion and what to do at the time of writing a summons.

Respondent recalled receiving the fax, and leaving it on her desk because she had to go out into the field to do some work. Respondent's office was open and she believed that McGuckin retrieved the fax from her desk. Respondent claimed to have had no further involvement other than receiving the fax with respect to the summons and the state trooper.

Respondent recalled receiving a text message from Rodriguez on August 11, 2010. Respondent did not question why she received the text message, but indicated that it was summons related so she forwarded the information to McGuckin. Respondent did

not recall McGuckin telling her to expect the text message from Rodriguez. Respondent did not pull the ticket referred to in Rodriguez's text message from the summons box. Respondent denied making any attempts to contact the officer that issued the summons. Other than forwarding the information from Rodriguez's text message to McGuckin, Respondent claimed to have had no further involvement with Rodriguez's request with respect to the summons.

On cross-examination Respondent testified that in 2010 there were two other delegates in the 40 Precinct, Police Officer Bencosme and Police Officer Luis Rodriguez. Respondent met McGuckin when she was first assigned to the 40 Precinct in 2004. She began a relationship with McGuckin in 2008; the two moved in together in 2010 and are still together. During her official Department interview, Respondent described that "taking care of a summons" could mean stopping it from being processed, by either destroying the summons or by the issuing officer omitting necessary information to ensure that the summons would be dismissed. Respondent testified that other ways to take care of a summons included voiding the summons and losing the summons, or by an officer omitting facts from testimony in court. A summons could be lost on purpose by either the issuing officer or by whomever could get access to the summons.

Regarding the summons issued to Person A for no truck route, Respondent recalled that Person A was worried about his license and how it would affect his job and his income. Respondent admitted that she was trying to see "if there was anything that could be done." Respondent agreed that she called the delegate, McGuckin, because she knew that delegates take care of summonses. Respondent indicated that by the time she received Person A's summons information, the summons was already processed.

Respondent was instructed by McGuckin to have Person A plead not guilty and get a court date. Respondent agreed that the recommendation to plead not guilty was done in hopes of getting the summons dismissed in court. Respondent reconfirmed that taking care of a summons involved having the motorist plead not guilty in hopes that the issuing officer would either forget crucial facts or "screw up" the testimony to cause the summons' dismissal. Respondent added, "Well, you would hope that when you - - when Person A went to explain to the judge what he was doing and where he was, that also he would win the argument. But in any case, I wanted him to know that he had support from me who was an experienced officer; in turn, I turned to the delegate."

Respondent reached out to her delegate because she knew that he would reach out to another delegate who would talk to the issuing officer. She knew that the way to take care of summonses was from one delegate to another.

When the male from ACD walked into the precinct on September 13, 2010, he was looking to take care of a summons that was issued to his father. Respondent agreed that McGuckin told her that it was too late because the summons was already handed in. Respondent denied that the reason for telling the male from ACD to have his father plead not guilty was so that the summons could be taken care of in court. Respondent explained,

We didn't have any - - goal as far as taking care of that individual. Initially my call to Brian [McGuckin] is also because the whole time there's an underlying issue about training new officers and reminding current officers about the importance of using discretion and I guess applying courtesy to other police officers who have cards. So when I have a member of the service coming in, I automatically assume that his father would have a PBA card that - - and why that individual might have been written up.

Those questions are not for me, it's not my responsibility, it's not my duty. The first thing I'm going to do is call the delegate. It just happens to be that Brian [McGuckin] is easy access for me because it's convenient; so I called him. And as far as taking care of it, it was just another way of putting it - - going through the normal procedures that anybody else would. Go to court and whatever happens, happens. Let the court decide what's going to happen next.

Respondent acknowledged that at the end of her conversation with McGuckin, she stated, "Plead not guilty and work it out" while the ACD member stood in front of her. Respondent clarified that she meant that the summons would be worked out through the court proceedings.

Regarding the summons that was faxed to the precinct by the state trooper, Respondent agreed that McGuckin told her during a phone call that a fax containing details about a summons was addressed to her attention and sent to the precinct. During Respondent's official Department interview, Respondent was asked why McGuckin was expecting a fax from a New Jersey state trooper. Respondent recalled that her answer to the question was "that's because that's what they do." Respondent affirmed that she meant that the delegates handle summonses. Respondent further recalled that she stated "so you just forward the information and the delegates take it from there" during her official Department interview. Respondent received the fax, and told McGuckin where she had placed it so that he could retrieve it. Respondent also indicated that there was a problem with the fax machine and the fax did not come through. The fax was received on a second fax number. Respondent agreed that she was worried that the original fax might eventually be received on the first fax number.

Respondent vaguely remembered the specifics in the text message about the summons information from Rodriguez. Respondent agreed that she gave the summons

information to McGuckin because she would call her delegate for anything to do with a summons. Respondent confirmed that she did not make any notifications to IAB.

Respondent admitted that she called McGuckin hoping that he could take care of a summons that was issued to Person A a friend of her family. Respondent remembered the Person A incident well enough so that investigators at her official Department interview did not have to play wiretap conversations to remind her of it.

FINDINGS AND ANALYSIS

Specification No. 1

Specification No. 1 charges that Respondent, on or about September 13, 2010, on two (2) occasions requested the assistance of other members of service to prevent the adjudication of summonses issued to two (2) individuals.

There are two separate occasions discussed in Specification No. 1. Respondent admitted to guilt on one occasion, which occurred on September 15, 2010. The second occasion, alleged by the Department to have occurred on September 13, 2010, Respondent denied.

During her official Department interview on January 26, 2012, Respondent defined "taking care of a summons as "basically stopping it from being processed." A summons, she explained, "can be voided," "destroyed," or "lost." Respondent described that the term "taking care of it in court" or "throw the case out in court" to mean "[b]asically omitting some kind of information to make it invalid" so that the case "would be dismissed."

On September 15, 2010, Respondent can be heard on a tape calling McGuckin, her delegate, and asking him, "Did you reach out for that summons?" Respondent asked him questions about how it works. McGuckin told her that the person "has to plead not guilty and mail it in." After the person receives a court date and appears for it, McGuckin explained, "We will take care of it in Court."

Respondent admitted in her official Department interview that on this occasion she had reached out to her delegate about her family friend's summons to ask "if there was anything that could be done." She confirmed that she was contacting her delegate to help with this summons in her court testimony.

Respondent's counsel also confirmed in his opening and closing argument that Respondent admitted to trying to interfere with the processing of this summons.

On a second occasion involving a telephone conversation between Respondent and McGuckin on September 13, 2010, Respondent denied guilt.

During this conversation, Respondent said, "I have a guy from auto crime that his guy got um a summons but it happened on the first."

McGuckin asked her what kind of summons and told her, "Tell him plead not guilty. That's all we can do."

Respondent gave him the tax number.

He told her again, "Yeah, but he got to plead not guilty. That's all we can do on the first they're already in."

Respondent said, "Okay and then they'll work it out?"

McGuckin said, "Yeah."

Respondent said, "Okay. I got his info."

McGuckin then called Respondent back very concerned that the officer was “lying that he’s from autocrime” and “could be a fucking set up.”

When asked at her official Department interview whether she was trying to see if there was a way for this ticket not to be processed properly, Respondent said, “Yes.” She admitted that the only way to take care of the summons would be through court.

Based on her statements and the evidence that Respondent reached out to her delegate, Respondent is found guilty of this second occasion. Therefore, Respondent is found Guilty of Specification No. 1.

Specification No. 2

Specification No. 2 charges that Respondent, on or about and between August 9, 2010 and August 11, 2010, after becoming aware of misconduct involving a member of service, failed to notify the IAB Command Center.

The Department presented evidence that when police officers want to “take care of” a summons, they contact a delegate. Respondent established in her statements and testimony that she contacted her delegate for this reason, also.

The Department presented evidence about two incidents in which Respondent was aware of misconduct. The evidence included recorded conversations between Respondent and McGuckin as well as other parties which demonstrated that McGuckin asked for Respondent’s assistance in receiving information about summonses. Respondent argued that she knew nothing about these summonses and they could have been related to professional courtesy or training.

On a tape, dated August 8, 2010, Officer McGuckin is heard speaking with a New Jersey state trooper identified as Kevin. McGuckin told Kevin, "I can't have anyone else find the summons come through, you know?"

The next day McGuckin told Kevin to fax the summonses to Respondent's attention. Right after, he called Respondent and told her, "I would like you to get your hands on it cause it a summons from a New Jersey trooper."

Respondent told him that she could not stand there waiting for the fax "with this fucking asshole at the desk."

These conversations demonstrate that Respondent understood that no one else at the precinct but she could know about this fax. Such secrecy would not be required if the summons issue was related to training or a legal request.

In a second incident, on August 11, 2010, McGuckin is recorded telling another officer that he had information sent to "his girl's" phone about "something written last night to a cop's sister." This conversation indicated that McGuckin thought he was being watched and that any text sent to him could be seen.

In the phone conversation that followed between Respondent and McGuckin, Respondent answered and asked McGuckin if he had a pen. He replied, "Yeah, I'm ready." Respondent then recited numbers, a name and time -- all summons information. The call quickly ended. During this call, Respondent did not ask McGuckin anything about what he had sent her and understood exactly what McGuckin wanted. Even without knowing the specific details, Respondent had to have understood that she was assisting McGuckin with taking care of the summons.

The cumulative evidence presented by the Department demonstrated by a preponderance of the evidence that, on both of these occasions, Respondent was aware of the delegate's misconduct.

Therefore, Respondent is found Guilty of Specification No. 2.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on July 1, 2003. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Regarding the occasion in Specification No. 1 to which Respondent admitted, Respondent's counsel argued that the fact that Person A's summons was never successfully "taken care of" and that Person A ended up pleading guilty was mitigation. However, the charge is that Respondent tried to prevent the proper adjudication of the summons. As the Department argued, whether Respondent's attempt was successful or not is not relevant.

The Department's recommended penalty is consistent with precedent for cases involving two summonses. Therefore, it is recommended that Respondent be *DISMISSED* from the New York City Police Department, but that his dismissal be held in abeyance for a period of one year, pursuant to § 14-115 (d) of the Administrative Code, during which time he is to remain on the force at the Police Commissioner's discretion and may be terminated at any time without further proceedings. The Court further

recommends that Respondent be suspended for 5 days and that he forfeit 25 vacation days.

Respectfully submitted,

Amy J. Porter
by [Signature]
Amy J. Porter

Assistant Deputy Commissioner – Trials

APPROVED

MAR 26 2014
[Signature]
WILLIAM J. BRATTON
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER CLAUDIA MERA
TAX REGISTRY NO. 933021
DISCIPLINARY CASE NO. 2012-6848

Respondent received an overall rating of 4.5 “Highly Competent/Extremely Competent” on her annual performance evaluations in 2012 and 2011 and a rating of 4.0 “Highly Competent” in 2010. She has one medal for Excellent Police Duty. [REDACTED]

[REDACTED] Respondent has no prior formal disciplinary record.

For your consideration.

Amy J. Porter

by *[Signature]*

Amy J. Porter
Assistant Deputy Commissioner Trials